

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of

Review of the Commission's)	
Regulations Governing)	MM Docket No. 91-221
Television Broadcasting)	
)	
Review of Commission's)	
Regulations Governing Attribution)	MM Docket No. 98-150
of Broadcast and Cable/MDS)	
Interests)	

To: The Commission

Reply Comments of Clear Channel Communications, Inc.

Clear Channel Communications, Inc. ("Clear Channel") hereby submits its reply comments in the above-referenced proceedings. Clear Channel, through a wholly-owned indirect subsidiary, Clear Channel Television Licenses, Inc. ("CCT") is the licensee of 12 commercial television stations---WAWS-TV, Jacksonville, FL; WPMI-TV, Mobile, AL; WPTY-TV, Memphis, TN; KOKI-TV, Tulsa, OK; KTTU-TV, Tucson, AZ; KSAS-TV, Wichita, KS; KAAS-TV, Salina, KS; KLRT-TV, Little Rock, AR; WFTC-TV, Minneapolis, MN; WXXA-TV, Albany, NY; WHP-TV, Harrisburg, PA; and WPRI-TV, Providence, RI. Seven of these stations program substantially all of the broadcast time of another local television station---in each case a UHF facility---pursuant to time brokerage local marketing agreements ("LMAs").

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The purpose of this reply is to address the comments of those parties who oppose the grandfathering of television LMAs or are generally adverse to their existence. These commenters include BET Holdings, Frances Dillard (an individual), Jet Broadcasting Co., Inc., Media Access Project, et al. and Post-Newsweek Stations, Inc. The reply demonstrates, based on Clear Channel's many years of practical experience with TV LMAs, that they do provide clear public interest benefits. As described in greater detail below, the benefits include the rejuvenation of failed or failing stations, the delivery of locally produced news and public affairs programming, and a general upgrade in the quality of operation of the brokered station. Based upon this experience and these public interest benefits, Clear Channel supports full permanent grandfathering on a non-attributable basis, of all existing TV LMAs. Further, Clear Channel believes the duopoly rule should be relaxed to allow UHF/UHF or UHF/VHF combinations in the same market.

Jacksonville, Florida

In Jacksonville, Florida, WNFT-TV, now WTEV-TV, a UHF facility, had failed. It had filed for bankruptcy protection under Chapter 11. Before CCT, licensee of WAWS-TV, another UHF station in the Jacksonville market, began its LMA, WTEV-TV's programming consisted primarily of paid infomercials and barter programming. Also, WTEV-TV was neither producing nor broadcasting any local news or

providing any community service. The station's signal was technically deficient and the station had a negative image in the community.

Subsequent to entering into the LMA, CCT provided the funds necessary for capital improvements and much-needed maintenance including upgrading WTEV's audio signal to stereo. CCT improved the station's programming, and was instrumental in causing the station to affiliate with UPN and obtaining Orlando Magic basketball and SEC football. Furthermore, because of the LMA, WTEV-TV now broadcasts public service announcements, local programming, and three hours per week of educational children's programming. It is anticipated that, in the fall of 1997, WTEV-TV will begin to produce and broadcast an early evening half-hour newscast.

Mobile, Alabama-Pensacola, Florida

On March 15, 1993, CCT, licensee of WPMI-TV, a Mobile, Alabama, UHF station, entered into a joint sales agreement ("JSA"), and, subsequently, a local marketing agreement with WJTC-TV, a UHF station in neighboring Pensacola, FL. Before CCT became involved, WJTC-TV faced such severe financial difficulty that it was frequently off the air. For example, the station did not broadcast during much of the May 1992 sweeps period. Recognizing the poor quality of the station in the market, major program syndicators accepted unpopular time periods on other area stations rather than prime time on

WJTC-TV. Finally, little to no public service was being performed and no programming was locally originated.

CCT provided funds required to improve WJTC-TV's physical plant and technical operations. CCT engineering personnel were loaned to WJTC-TV, and the Station's on-air look was upgraded. As a result, syndicators developed confidence in WJTC-TV and the quality of its program schedule improved. WJTC-TV was offered improved cable television channel positions and ratings tripled during the first year of the LMA. WJTC-TV was then able to enhance its public service with a weekly half-hour public affairs program which aired in early fringe and, later, a 9:00 p.m. news program. New programming broadcast on WJTC-TV as a result of the LMA includes a locally-produced and hosted pet show, a fix-it-yourself show, and an interior design program. Also WJTC-TV carries University of Southern Alabama basketball games in prime time which allows the University to increase its ability to raise funds through advertiser support.

The LMA has also resulted in efficiencies and economies of scale that took WJTC-TV from an inefficiently-organized, potentially failing station to a financially viable entity that is now a source of quality syndicated programming, local programming, news and community service. The LMA also resulted in saving precious jobs that would otherwise have been lost had WJTC-TV been forced off the air. In fact, over time, the total number of jobs rose for both stations as a direct result of the advantages of combined operation.

Little Rock, Arkansas

In Little Rock, where CCT is the licensee of UHF station KLRT-TV, similar facts are present. CCT entered into a JSA and later an LMA, with KASN-TV, a UHF station licensed to neighboring Pine Bluff, Arkansas. KASN-TV had been losing substantial sums of money and was frequently off the air.

Since CCT became involved, it has provided more than \$400,000 for improved equipment which, among other things, will soon permit the station to broadcast in stereo. KASN-TV now broadcasts a quality signal into southeast Arkansas, whose needs were otherwise inadequately served, and even today are not adequately addressed by two of the three network affiliates in the market.

Further, KASN-TV carries two annual telethons sponsored by the United Negro College Fund and the Arthritis Foundation which had been dropped by other stations in the market. KASN-TV has also materially improved the quality of its programming. As a result of the LMA, it now carries a weekly public affairs program, four hours of children's educational programming, and the full UPN network lineup.

To better serve the area's large minority population KASN-TV programs the 5:00 pm to 7:00 p.m. time period to appeal to the African-American community. KASN-TV produces educational vignettes for children in its daily KIDSLAND segment and, through the LMA, has sponsored an award-winning teen page on the Internet with monthly surveys on various issues of public importance. As a result of the LMA, KASN-TV

now runs a large number of public service announcements (90 for adults and 68 for children in an average week) and its prime time ratings have improved by 50%.

Without an LMA, KASN-TV would not have been able to raise money for the United Negro College Fund and the Arthritis Foundation, provide educational programming, carry public affairs programming, or sponsor surveys of young adults in its market.

Tulsa, Oklahoma

In Tulsa, Oklahoma, where CCT operates KOKI-TV, a UHF station, KTFO-TV was a failing station. KTFO had been off the air for two years, and although it had resumed broadcast operations, was losing nearly a million dollars per year. Absent the LMA, KTFO probably would have gone dark again. The station was airing little or no locally-produced programming or public service programming and there was no children's educational programming. The program schedule consisted primarily of barter programming and infomercials.

As a result of the LMA, KTFO-TV now has 4.5 hours of children's educational programming per week, with an increase to 5.5 hours per week scheduled for the fall of 1997. KTFO-TV is a local sponsor of groups such as Oklahoma Kids, an organization that fights drugs through the performances of children singing and dancing across the state. KTFO-TV also supports many local charities and community groups and events with on-air sponsorships. The station is a sponsor of

approximately 20 family/community events and shows each year in Tulsa.

As a result of the LMA, KTFO now broadcasts a more complete line-up of family programs and has greatly reduced the number of hours of infomercials. Through the LMA, KTFO will soon increase its news, information and weather programming for the market.

Lancaster. Pennsylvania

WLYH-TV, a UHF station licensed to Lancaster, Pennsylvania, was one of two CBS affiliates in the Harrisburg-Lancaster-Lebanon-York market where CCT operates WHP-TV, also a UHF station. When WLYH was not broadcasting duplicative CBS programming it was preempting both network and syndicated programming to air a large number of half-hour paid infomercials. Nonetheless, WLYH-TV was losing money and in danger of going dark.

As a result of an LMA with CCT, the market no longer receives duplicative CBS programming. Instead, WLYH-TV broadcasts the entire United Paramount Network ("UPN") lineup as well as other quality programming previously unavailable in the market. Included is three (3) hours per week of educational children's programming, which will increase to four (4) hours per week in the fall of 1997. WLYH has also added a 10:00 p.m. newscast using WHP-TV personnel, that regularly covers news events specific to Lebanon, Pennsylvania, something that no other station in the market is doing. Further, CCT has provided \$1.5 million for capital

investments at WLYH-TV, including upgrades to its news capabilities, and an additional \$1.4 million to cover operational expenses for news and programming. The result of the LMA has been more program diversity at WLYH-TV, a local news product, additional educational children's programming, and better signal quality.

Providence, Rhode Island

In Providence, Rhode Island, CCT is the licensee of WPRI-TV. WNAC-TV, the UHF Fox affiliate in Providence, was suffering from low ratings, and had no news product, no public service programming and only one half-hour locally produced program, a "Bozo" children's show consisting mostly of cartoon reruns. Since CCT and WNAC entered into an LMA, WNAC-TV's performance has been vastly improved. Recently, it received recognition from Fox as a "most-improved station". As a result of the LMA, WNAC now broadcasts the market's first 10:00 p.m. newscast. While the broadcast features WPRI-TV employees, it is entirely different from the news broadcast by WPRI-TV.

As a result of the LMA, WNAC-TV also broadcasts a Community Calendar that publicizes community and charitable events, and spearheads a "Christmas in April" event which helps to renovate houses of the underprivileged in Providence.

Memphis, Tennessee

In Memphis, Tennessee, CCT operates WPTY-TV, a UHF station. WPTY was originally affiliated with Fox, but recently switched to ABC. The current owners of WLMT-TV, also a UHF facility in the market, and the previous owner had been unable to generate any cash flow and were losing money.

CCT began an LMA with WLMT several years ago. As a result of the LMA, WLMT-TV now airs a daily news product directed toward the needs of the African-American population of Memphis, the 13th largest African-American DMA. The program, the only newscast of this type in the country, includes features which concentrate on health issues of concern to African-Americans and upon their culture, history, and contributions to the city of Memphis. The cost and risk of the venture are such that the program would never have been possible absent the economies of scale (e.g., combined studio, set and personnel) arising out of the LMA. In fact, the previous licensee broadcast no news at all.

In addition, since ABC programming fills more of the broadcast day on WPTY than did Fox programming, much of WPTY-TV's pre-purchased programming is now broadcast on WLMT-TV. Absent the LMA, this popular programming would air on WPTY at odd times or not be broadcast at all.

Also as a result of the LMA, WLMT-TV has been able to broadcast sporting events that otherwise would not be aired in the market, such as prime time telecasts of University of Memphis and SEC tournament basketball.

Therefore, due to the LMA, Memphis has a source of popular syndicated programming, news programming specially tailored to suit the needs of the African-American community, and a venue for local sports programming, all of which the city would not otherwise receive.

Argument

The foregoing demonstrates that in each and every market an LMA produced substantial public interest benefits, many of which are of particular significance to this Commission (e.g., greatly expanded educational children's programming; the initiation of local news and public affairs programs; the creation of locally-produced programming directed at minority groups; first local service from new national networks such as UPN; increased involvement in community affairs and charitable causes; and a reduction in the number of infomercials and paid programming). These public interest benefits were the direct result of the economies of scale which arise out of LMAs, and would not have been realized in their absence.

For the foregoing reasons, Clear Channel urges the permanent grandfathering of all existing LMAs. It would be inequitable to the parties who entered into LMAs in good faith, invested substantially in them, and generated public interest benefits of the sort described above to establish any sunset date for these LMAs. Changing the rules in this manner would unfairly harm these parties by denying them a proper return on their investment. Even more significantly,

however, it would jeopardize the substantial public interest benefits which flow from such relationships. Clear Channel strongly opposes the Commission's proposal to limit LMAs inconsistent with its forthcoming multiple ownership rules to their original term. This proposal is wrongheaded in that it would reward those parties who ignored the Commission's entreaties and, nevertheless, negotiated agreements with extremely long terms, and penalize those who adhered to the Commission's advice and agreed to short-term arrangements.

Finally, it should be noted that among the principal beneficiaries of LMAs are UHF stations struggling to remain viable in a highly competitive marketplace. It is well-established that UHF television stations are disadvantaged versus their VHF counterparts due to reduced coverage, inferior transmission characteristics, and higher costs of operation. These factors have made it difficult for UHF stations to produce revenue comparable to, and compete effectively with, VHF stations. The public interest is best served by the establishment of rules which will place all stations, UHF and VHF, on a level playing field on which they have equivalent opportunities to broadcast quality programming. It would contribute toward the realization of this objective for the Commission to generally permit a UHF licensee to have an attributable interest in another in-market station, UHF or VHF. This relaxation of FCC rules

would improve the quality and diversity of programming as, the record shows, LMA's have done in the past.

Conclusion

Therefore, Clear Channel urges the FCC to:

- (a) permit common ownership of UHF/UHF or UHF/VHF combinations in the same market as an unconditional exception to the current duopoly rule
- (b) grandfather and allow the permanent continuation of current LMA's; and
- (c) permit licensees to enter into LMA's in the future.

Respectfully submitted,

Clear Channel Communications, Inc.

By:


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